

## AFFIDAVIT OF SERVICE

EXHIBIT

C

<b>Case:</b> 22EV006607	<b>Court:</b> In The State Court of Fulton County	<b>County:</b> Fulton County, GA	<b>Job:</b> 8028021
<b>Plaintiff / Petitioner:</b> Cecilia Lynch Hammond		<b>Defendant / Respondent:</b> De Jesus Hernandez Hiram, Aviles Robbins Truck Leasing, LLC, Manuel Mendoza Santiago, USI Insurance Services, LLC, and State National Specialty Insurance Company	
<b>Received by:</b> Sly Fox Process Service, LLC		<b>For:</b> Mitchell E. McGough Law, LLC	
<b>To be served upon:</b> Aviles Robbins Truck Leasing Co., C/O Atlanta Legal Services, LLC			

PERSONALLY, APPEARED before me, the undersigned officer of the State of Georgia authorized to administer oaths, Gene Andrews, who upon being duly sworn and under oath, stated the following upon personal knowledge: I am over the age of eighteen (18) years, a native-born citizen of the United States of America, not a convicted felon, not related to any of the above stated party, have no interest in the above styled case, and that within the boundaries of the State of Georgia where service was attempted or effected, I was authorized by law to make service of the documents.

**Recipient Name / Address:** Aviles Robbins Truck Leasing Co., C/O Atlanta Legal Services, LLC, 3301 Buckeye Road Suite 303, Atlanta, Georgia 30341

**Manner of Service:** Registered Agent, Jan 17, 2023, 10:24 am EST

**Documents:** Summons, Case Information Filing Form, Complaint, Plaintiff's 1st Requests for Admission of Facts to Defendant Hiram, Plaintiff's 1st Requests for Admission of Facts to Defendant Aviles-Robbins Leasing, LLC, Plaintiff's 1st Requests for Admission of Facts to Defendant State National Insurance Co., Plaintiff's 1st Requests for Admission of Facts to Defendant Santiago, Plaintiff's 1st Requests for Admission of Facts to Defendant USI, Plaintiff's 1st Interrogatories to Defendant Hiram, Plaintiff's 1st Continuing Interrogatories to Defendant Aviles-Robbins Truck Leasing, LLC, Plaintiff's 1st Interrogatories to Defendant State National Insurance Company, Plaintiff's 1st Interrogatories to Defendant Santiago, Plaintiff's 1st Interrogatories to Defendant USI Insurance Services, LLC, Plaintiff's 1st Requests for Production of Documents to Defendant Hiram, Plaintiff's 1st Requests for Production of Documents to Defendant Aviles-Robbins Truck Leasing, LLC, Plaintiff's 1st Requests for Production of Documents to Defendant Santiago, Amended Summons.

**Additional Comments:**

1) Successful Attempt: Jan 17, 2023, 10:24 am EST at 3301 Buckeye Road Suite 303, Atlanta, Georgia 30341 received by Aviles Robbins Truck Leasing Co., C/O Atlanta Legal Services, LLC.

Marc Allard accepted the service documents at the Registered Agent's office.

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

Date

1-18-23  
 12.20.24  
 NOTARY PUBLIC  
 My Commission Expires December 20, 2024  
 LEIGH LLOYD JOHNSTON  
 MINNETT COUNTY, GEORGIA

Gene Andrews

Date

STATE COURT OF FULTON COUNTY  
ALBANY, GEORGIA

## IN THE STATE COURT OF FULTON COUNTY

## STATE OF GEORGIA

Administrative Order No. 23EX000001

## IN RE: ORDER FOR APPOINTMENT FOR SERVICE OF PROCESS

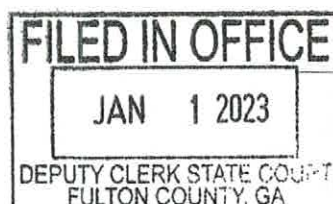
It appearing that the State Court of Fulton County has read and considered petitions and criminal records for the persons listed below, and the same having met certification requirements, this Court hereby allows the same to serve process for State Court proceedings,

**IT IS HEREBY ORDERED** that the following persons:

ABRAHAM, ROBYN L.	DAY, DUANE DAVIDSON	JENKINS, STEPHANIE	SAXON-FORD, VIRGINIA
ADAMS JR., JOHN G.	DEVAUGHN, CARL L.	JOHNSON, EARL C.	SEKLECKI, CHRISTIAN
ADCOCK, KYLE	DOLBIER, JEFFREY ALAN	KAHSSU, HAILE T.	SIBBALD, JOHN W.
ALLEN, LAKEITA T.	EARTHRISE, ROCHELLE	KENERSON, LORENZO	SINGLETON, WANDA
ANDERSON, QAISAR C.	ECHOLS, ERIC DWIGHT	KING, AMOS	SINGLETON, WESLEY G.
ANDERSON, WILLIAM J.	ECHOLS, PATRICIA IZETTA	KIRKLAND, SHIRLEY P.	SMITH JR., BRUCE R.
ANDREWS II, GENE E.	ELLIOTT, MAURICE	KOTLAR, MICHAEL J.	SMITH, RONALD L.
ARMSTRONG, CHRISTOPHER	FARKAS, BELA	LAUSMAN, MARSHA C.	SMITH, VIRGINIA E.C.
ARMSTRONG, CYNARA J.	FAULKNER, DANA V.	LAWSON, ZURI M.	SNELLINGS, SHARON
ARMSTRONG, MIATEUE DENISE	FAZZIO, DEDREA L.	LEWIS, KEVIN J.	SPEARS, JOYE L.
BACKO, MUSTAFA	FERRERO, AMY L.	LOUIS, CLYDE A.	SPELLEN, ELIZABETH B.
BAILEY, ANNA MARIE	FISHER, DAWN W.	LUSTER, JERALD DEON	SPELLEN, GEOFFREY B.
BARNES, KRISTOPHER KEVIN	FITZGERALD, FLORETTA	MAGGARD JR., ANDREW	STARKS, MARC ANTONY
BARNES, STACY	FOLDS, CATHERINA P.	MALLAS, NICHOLAS A.	STEPHENS, GERI S.
BARNEY JR., STEVEN MICHAEL	FOLDS, GEORGE LARRY	MANCE, KAY	STEWART, RONNIE N.
BARRON, SHANE WILLIS	FORD, RONNIE	MATHES, GABRIELLE	STIGGERS, JAMES
BASHAM, JAMES STEVEN	FOX, JUHANI ALLEN	MCCLELLAN, RODNEY	STONE, RODNEY D.
BENITO, RICHARD	FREESE, JESSICA RENEE	MCGAHEE, LARRY L.	STOVER, CIERRA B.
BETHEL-MAXIE, VAQUISHA R.	FULLER, THOMAS W.	MCMILLON, ERICKA D.	SWINDLE, FRANK L.
BEYENE, EUAEL B.	GALVIN, ELIZABETH M.	MITCHELL, KEVIN J.	SWINGER, INA L.
BLAKENEY, KRISTIAN JOHN	GARMON, JASON H.	MORGAN, TODD V.	TASSAW, BERHANE
BLALOCK, JAMES S.P.	GAYLE, EARL WINSTON	MUHAMMAD, AZIZAH	THOMAS, JEFFREY A.
BLESSMAN, SHARON CAMPBELL	GEORGE, RANDAL LEE	MURPHY JR., GREGORY	THOMPSON, CHRISSANA
BOLLING, KATHERINE DEVORE	GIBBS III, THOMAS D.	MURRAH, JANQUALO D.	THOMPSON, VANESSA
BRAZEMAN, CRAIG PHILIP	GILES, HERBERT F.	NICHOLS, JEAN GRINWIS	TORT, HENRY
BRIDGES, KAYLA DENISE	GREEN ANJENAI G.	NICHOLS, LATHAN OTTO	VELASQUEZ, JULIUS
BRILEY, DONNIE CHAPPELLE	GREENWAY, KIMBERLY B.	NOLEN, MILTON LEE	WASHINGTON, SABRINA
BROWN, IRISH J.	HANDLEY, WILEY D.	O'BRIEN, CHRISTOPHER	WATTS II, ROOSEVELT
BRYANT, SHEMIKA	HARBUCK, MICHAEL A.	O'LEARY, CHRISTINE L.	WEBBER, MELINA MARY
BUNCH, KIM	HARRIS, PARKS WAYNE	PALMER, ALITA	WEST, ERIC NOEL
BUTTS, KIMBERLY L.	HASSAN, MUHSIN SHAHID	PANNELL, NICOLE D.	WILLIAMS, LAVERN A.
BYER, EDMOND JOHN	HERNENDEZ, BRYAN C.	PARKER, ATARI L.	WINKELMAN, NAN L.
CABRERA-ANDERSON, SANDY	HIGHTOWER, ANTHONIO	PARKER, ERNESQUESHIA	WOLFE, LISA LYNN
CHASTAIN, MICHAEL ALAN	HILL, HOLLIS JEROME	PERLSON, MARC DAMON	WRIGHT, CHRISTOPHER K.
CHESTER, ROSETTA L.	HILL, LISA WILSON	RANSOME, MAURICE	
CHILDRESS, CLIFTON	HINES, JAMES W.	RASHID, HASSAN M.	
CLEMMONS, JOYCE YVONNE	HORTON, CHRISTOPHER T.	RECKERSDREES, THOMAS	
CLINE, TRAVIS DANIEL	HUDSON, HAKIMAH	REDDICK, DEREK LAMAR	
COCHRANE, BABETTE DAWN	HUDSON, KYLE	REYES, REAGAN J.	
CRUMP, THOMAS RAYNARD	HUGULEY, CK ADONNI	RHODES, KATHRYN D.	
CUNNINGHAM, SALLY K.	HUMPHREY JR., RONALD	RICHARDSON, LEROY	
DALMAN, JONATHAN B.	HUNTER, JERMARCUS D.	RIVERS, MICHAEL T.	
DAMBACH-CIRKO, PATRICIA J.	IRVINE, XAVIER A.	ROWE, LYNN	
DANIELS, SONIA LYNN	JACKSON II, ANTHONY	RUDDOCK, MARGARET	
DAVIDSON, DANNY DOUGLAS	JACKSON, CHIQUITA W.	SAXON, JASMINE N.	
DAVIDSON, MITCHELL T.	JAMES, FRANK HUGH	SAXON, ROBIN L.	

be appointed and authorized to serve as Permanent Process Servers for the calendar year of 2023, without the necessity of an order for appointment in each individual case.

**SO ORDERED**, this 1st day of January, 2023.



*A. Taylor*  
Chief Judge Wesley B. Taylor  
State Court of Fulton County



## AFFIDAVIT OF SERVICE

<b>Case:</b> 22EV006607	<b>Court:</b> In The State Court of Fulton County	<b>County:</b> Fulton County, GA	<b>Job:</b> 8028008
<b>Plaintiff / Petitioner:</b> Cecilia Lynch Hammond		<b>Defendant / Respondent:</b> De Jesus Hernandez Hiram, Aviles Robbins Truck Leasing, LLC, Manuel Mendoza Santiago, USI Insurance Services, LLC, and State National Specialty Insurance Company	
<b>Received by:</b> Sly Fox Process Service, LLC		<b>For:</b> Mitchell E. McGough Law, LLC	
<b>To be served upon:</b> State National Specialty Insurance Company, c/o C T Corporation System			

PERSONALLY, APPEARED before me, the undersigned officer of the State of Georgia authorized to administer oaths, Gene Andrews, who upon being duly sworn and under oath, stated the following upon personal knowledge: I am over the age of eighteen (18) years, a native-born citizen of the United States of America, not a convicted felon, not related to any of the above stated party, have no interest in the above styled case, and that within the boundaries of the State of Georgia where service was attempted or effected, I was authorized by law to make service of the documents.

**Recipient Name / Address:** State National Specialty Insurance Company, c/o C T Corporation System, 289 South Culver Street, Lawrenceville, Georgia 30046

**Manner of Service:** Registered Agent, Dec 2, 2022, 2:14 pm EST

**Documents:** Summons, Case Information Filing Form, Complaint, Plaintiff's 1st Requests for Admission of Facts to Defendant Hiram, Plaintiff's 1st Requests for Admission of Facts to Defendant Aviles-Robbins Leasing, LLC, Plaintiff's 1st Requests for Admission of Facts to Defendant State National Insurance Co., Plaintiff's 1st Requests for Admission of Facts to Defendant Santiago, Plaintiff's 1st Requests for Admission of Facts to Defendant USI, Plaintiff's 1st Interrogatories to Defendant Hiram, Plaintiff's 1st Continuing Interrogatories to Defendant Aviles-Robbins Truck Leasing, LLC, Plaintiff's 1st Interrogatories to Defendant State National Insurance Company, Plaintiff's 1st Interrogatories to Defendant Santiago, Plaintiff's 1st Interrogatories to Defendant USI Insurance Services, LLC, Plaintiff's 1st Requests for Production of Documents to Defendant Hiram, Plaintiff's 1st Requests for Production of Documents to Defendant Aviles-Robbins Truck Leasing, LLC, Plaintiff's 1st Requests for Production of Documents to Defendant Santiago,

**Additional Comments:**

1) Successful Attempt: Dec 2, 2022, 2:14 pm EST at 289 South Culver Street, Lawrenceville, Georgia 30046 received by State National Specialty Insurance Company, c/o C T Corporation System.

Jane Richardson, Intake Specialist, accepted the service documents at the Registered Agent's office.

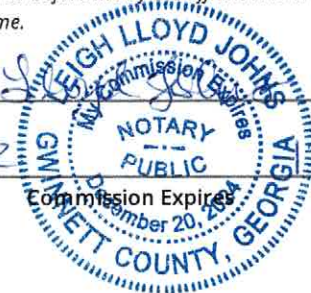
 12-5-22  
Gene Andrews Date

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

12.05.22

Date



12.20.24

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

CECILIA LYNCH HAMMOND,

Plaintiff,

v.

DE JESUS HERNANDEZ HIRAM,  
AVILES-ROBBINS TRUCK LEASING  
LLC, MANUEL MENDOZA SANTIAGO,  
USI INSURANCE SERVICES LLC, and  
STATE NATIONAL SPECIALTY  
INSURANCE COMPANY,

Defendants.

Civil Action File No. 22EV006607

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**DEFENDANT STATE NATIONAL SPECIALTY INSURANCE COMPANY'S ANSWER  
AND DEFENSES TO PLAINTIFF'S COMPLAINT**

COME NOW, Defendant State National Specialty Insurance Company (hereinafter, "Defendant" or "this Defendant") in the above-styled action, and file the following Answer and Defenses to Plaintiff's Complaint and show the Court as follows:

**FIRST DEFENSE**

The Complaint fails to set forth a claim against Defendant upon which relief can be granted.

**SECOND DEFENSE**

Defendant is not liable to Plaintiff because Defendant breached no duty in regard to the occurrence giving rise to this Complaint.

**THIRD DEFENSE**

To the extent as may be shown by evidence, Defendant assert the defenses of contributory/comparative negligence, assumption of the risk, failure to avoid consequences, failure to exercise ordinary care and failure to mitigate damages.

**FOURTH DEFENSE**

Plaintiff's injuries, if any, were caused by an unforeseeable intervening third-party tortfeasor and/or the acts and failures to act of persons or entities other than this Defendant.

**FIFTH DEFENSE**

Plaintiff's claims for punitive damages are unsupported, unfounded, and should be dismissed.

**SIXTH DEFENSE**

Plaintiff's claims for attorney's fees and expenses pursuant to O.C.G.A. §13-6-11 and O.C.G.A. §9-15-14 are factually and legally without merit and should be dismissed. This Defendant has at all times acted in good faith with respect to Plaintiff's claim and has in no way been stubbornly litigious or caused Plaintiff unnecessary trouble and expense. Therefore, Plaintiff is not entitled to attorney's fees or expenses of litigation.

**SEVENTH DEFENSE**

Defendant State National Specialty Insurance Company is an improper party to this action as there is no proper basis for its inclusion in this action as a party, whether under Georgia's Direct-Action Statute or otherwise.

**EIGHTH DEFENSE**

Defendant hereby reserves the right to plead additional affirmative defenses as they may become known during discovery.

**NINTH DEFENSE**

Defendant answers the numbered paragraphs of Plaintiffs' Complaint as follows:

1.

Defendant admits the allegations contained in Paragraph No. 1 of Plaintiff's Complaint.

2.

In response to the allegations contained in Paragraph No. 2 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram is not a resident of Georgia. This Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 2 of Plaintiff's allegations.

3.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 3 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

4.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 4 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

5.

In response to the allegations contained in Paragraph No. 5 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram is a resident of Florida. This Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 5 of Plaintiff's Complaint.

6.

This Defendant denies the allegations contained in Paragraph No. 6 of Plaintiff's Complaint..

7.

This Defendant admits the allegations contained in Paragraph No. 7 of Plaintiff's Complaint.

8.

In response to the allegations contained in Paragraph No. 8 of Plaintiff's Complaint, this Defendant admits that Defendant Santiago is a nonresident motorist. This Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 8 of Plaintiff's Complaint.

9.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 9 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

10.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 10 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

11.

In response to the allegations contained in Paragraph No. 11 of Plaintiff's Complaint, this Defendant admits that Defendant Mendoza is not a resident of Georgia, this Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 11 of Plaintiff's Complaint.

12.

This Defendant denies the allegations contained in Paragraph No. 12 of Plaintiff's Complaint.

13.

This Defendant denies the allegations contained in Paragraph No. 13 of Plaintiff's Complaint.

14.

This Defendant admits the allegations contained in Paragraph No. 14 of Plaintiff's Complaint.

15.

This Defendant admits the allegations contained in Paragraph No. 15 of Plaintiff's Complaint.

16.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 16 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

17.

This Defendant denies the allegations contained in Paragraph No. 17 of Plaintiff's Complaint.

18.

This Defendant denies the allegations contained in Paragraph No. 18 of Plaintiff's Complaint.

19.

This Defendant denies the allegations contained in Paragraph No. 19 of Plaintiff's Complaint.

20.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 20 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

21.



Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 21 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

22.

This Defendant denies the allegations contained in Paragraph No. 22 of Plaintiff's Complaint.

23.

Defendant admits that it is a foreign corporation authorized to do business in the State of Georgia and may be served by its registered agent, CT Corporation System, 289 S. Culver Street, Lawrenceville, GA, 30046.

24.

Defendant denies the allegations contained in Paragraph No. 24 of Plaintiff's Complaint.

25.

Defendant denies the allegations contained in Paragraph No. 25 of Plaintiff's Complaint.

26.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 26 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

27.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 27 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

28.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 28 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

29.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 29 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

30.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 30 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

31.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 31 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

32.

Defendant denies the allegations contained in Paragraph No. 32 of Plaintiff's Complaint.

33.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 33 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

34.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 34 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

35.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 35 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

36.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 36 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

37.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 36 of Plaintiff's Complaint as if fully stated herein.

38.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 38 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

39.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 38 of Plaintiff's Complaint as if fully stated herein.

40.

Defendant denies the allegations contained in Paragraph No. 40 of Plaintiff's Complaint.

41.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 41 of Plaintiff's Complaint as if fully stated herein.

42.

Defendant denies the allegations contained in Paragraph No. 42 of Plaintiff's Complaint.

43.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 42 of Plaintiff's Complaint as if fully stated herein.

44.

Defendant denies the allegations contained in Paragraph No. 44 of Plaintiff's Complaint.

45.

Defendant denies the allegations contained in Paragraph No. 45 of Plaintiff's Complaint.

46.

Defendant denies the allegations contained in Paragraph No. 45 of Plaintiff's Complaint.

47.

In response to the allegations contained in Paragraph No. 47 of Plaintiff's Complaint, this Defendant admits that it provided a policy of liability insurance to Aviles Robbins that was in effect at the time of the incident referenced in Plaintiff's Complaint.

48.

Defendant denies the allegations contained in Paragraph No. 48 of Plaintiff's Complaint.

49.

Defendant denies the allegations contained in Paragraph No. 49 of Plaintiff's Complaint.

50.



Defendant denies the allegations contained in Paragraph No. 50 of Plaintiff's Complaint.

51. (Second Paragraph 43)

Defendant denies the allegations contained in Paragraph No. 51 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 43.

52. (Second Paragraph 44)

Defendant denies the allegations contained in Paragraph No. 52 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 44.

53. (Second Paragraph 45)

Defendant denies the allegations contained in Paragraph No. 53 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 45.

54. (Second Paragraph 46)

Defendant denies the allegations contained in Paragraph No. 54 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 46.

55.

Any allegations contained in Plaintiff's Complaint not herein responded to by number, including Plaintiff's ad damnum/prayer for relief clause and its subparts, are hereby denied.

WHEREFORE, having fully answered, Defendant pray that the Complaint be dismissed with costs of this action cast against Plaintiff.

Defendants further demand a trial by a twelve (12) person jury.

This 13<sup>th</sup> day of February 2023.

COPELAND, STAIR, VALZ & LOVELL,  
LLP

191 Peachtree Street NE, Suite 3600  
P.O. Box 56887 (30343-0887)  
Atlanta, Georgia 30303-1740  
Phone: 404-522-8220  
Fax: 404-523-2345  
[abeaton@csvg.law](mailto:abeaton@csvg.law)  
[mjyates@csvg.law](mailto:mjyates@csvg.law)

By: /s/ Michael J. Yates  
ANNA K. BEATON  
State Bar No.: 421320  
MICHAEL J. YATES, JR.  
State Bar No.: 708897

*Attorneys for Defendant State  
National Specialty Insurance  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing upon all parties to this matter via electronic filing with the Clerk of the Court, addressed to counsel of record as follows:

Mitchell E. McCough  
MITCHELLE E MCGOUGH LAW, LLC  
945 E. Paces Ferry Rd. NE  
Suite 2250  
Atlanta, GA 30326  
*Attorney for Plaintiff*

This 13<sup>th</sup> day of February 2023.

COPELAND, STAIR, VALZ & LOVELL,  
LLP

191 Peachtree Street NE, Suite 3600  
P.O. Box 56887 (30343-0887)  
Atlanta, Georgia 30303-1740  
Phone: 404-522-8220  
Fax: 404-523-2345  
[abeaton@csvg.law](mailto:abeaton@csvg.law)  
[mjyates@csvg.law](mailto:mjyates@csvg.law)

By: /s/ Michael J. Yates  
ANNA K. BEATON  
State Bar No.: 421320  
MICHAEL J. YATES, JR.  
State Bar No.: 708897

*Attorneys for Defendant State  
National Specialty Insurance  
Company*

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

CECILIA LYNCH HAMMOND,

Plaintiff,

v.

Civil Action File No. 22EV006607

DE JESUS HERNANDEZ HIRAM,  
AVILES-ROBBINS TRUCK LEASING  
LLC, MANUEL MENDOZA  
SANTIAGO, USI INSURANCE  
SERVICES LLC, and STATE  
NATIONAL SPECIALTY INSURANCE  
COMPANY,

Defendants.

---

**DEFENDANT AVILES-ROBBINS TRUCK LEASING LLC'S ANSWER AND  
DEFENSES TO PLAINTIFF'S COMPLAINT**

COME NOW, Defendant Aviles-Robbins Truck Leasing, LLC (hereinafter, "Defendant" or "this Defendant") in the above-styled action, and file the following Answer and Defenses to Plaintiff's Complaint and show the Court as follows:

**FIRST DEFENSE**

The Complaint fails to set forth a claim against Defendant upon which relief can be granted.

**SECOND DEFENSE**

Defendant is not liable to Plaintiff because Defendant breached no duty in regard to the occurrence giving rise to this Complaint.

**THIRD DEFENSE**



To the extent as may be shown by evidence, Defendant assert the defenses of contributory/comparative negligence, assumption of the risk, failure to avoid consequences, failure to exercise ordinary care and failure to mitigate damages.

#### **FOURTH DEFENSE**

Plaintiff's injuries, if any, were caused by an unforeseeable intervening third-party tortfeasor and/or the acts and failures to act of persons or entities other than this Defendant.

#### **FIFTH DEFENSE**

Plaintiff's claims for punitive damages are unsupported, unfounded, and should be dismissed.

#### **SIXTH DEFENSE**

Plaintiff's claims for attorney's fees and expenses pursuant to O.C.G.A. §13-6-11 and O.C.G.A. §9-15-14 are factually and legally without merit and should be dismissed. This Defendant has at all times acted in good faith with respect to Plaintiff's claim and has in no way been stubbornly litigious or caused Plaintiff unnecessary trouble and expense. Therefore, Plaintiff is not entitled to attorney's fees or expenses of litigation.

#### **SEVENTH DEFENSE**

Defendant hereby reserves the right to plead additional affirmative defenses as they may become known during discovery.

#### **EIGHTH DEFENSE**

No act or omission of this Defendant was a factor, whether substantial or otherwise, in causing the incident or injury alleged in the Complaint, if any. Additionally, no act and/or omission of this Defendant contributed, in any matter, to the incident or injury alleged in the Complaint, if any.

### **NINTH DEFENSE**

Defendant answers the numbered paragraphs of Plaintiffs' Complaint as follows:

1.

Defendant admits the allegations contained in Paragraph No. 1 of Plaintiff's Complaint.

2.

In response to the allegations contained in Paragraph No. 2 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram is not a resident of Georgia. This Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 2 of Plaintiff's allegations.

3.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 3 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

4.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 4 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

5.

In response to the allegations contained in Paragraph No. 5 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram is a resident of Florida. This Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 5 of Plaintiff's Complaint.

6.

This Defendant denies the allegations contained in Paragraph No. 6 of Plaintiff's Complaint.

7.

This Defendant admits the allegations contained in Paragraph No. 7 of Plaintiff's Complaint.

8.

In response to the allegations contained in Paragraph No. 8 of Plaintiff's Complaint, this Defendant admits that Defendant Santiago is a nonresident motorist. This Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 8 of Plaintiff's Complaint.

9.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 9 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

10.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 10 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

11.

In response to the allegations contained in. Paragraph No. 11 of Plaintiff's Complaint, this Defendant admits that Defendant Mendoza is not a resident of Georgia, this Defendant can neither admit nor deny the remaining allegations contained in Paragraph No. 11 of Plaintiff's Complaint.

12.

This Defendant denies the allegations contained in Paragraph No. 12 of Plaintiff's Complaint.

13.

This Defendant denies the allegations contained in Paragraph No. 13 of Plaintiff's Complaint.

14.

This Defendant admits the allegations contained in Paragraph No. 14 of Plaintiff's Complaint.

15.

This Defendant admits that it is a foreign corporation incorporated under the laws of Florida and was served with process in this case by serving its registered agent for service of process.

16.



This Defendant denies the allegations contained in Paragraph No. 16 of Plaintiff's Complaint.

17.

This Defendant denies the allegations contained in Paragraph No. 17 of Plaintiff's Complaint.

18.

This Defendant denies the allegations contained in Paragraph No. 18 of Plaintiff's Complaint.

19.

This Defendant denies the allegations contained in Paragraph No. 19 of Plaintiff's Complaint.

20.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 20 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

21.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 21 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

22.

This Defendant denies the allegations contained in Paragraph No. 22 of Plaintiff's Complaint.

23.

Defendant admits that it is a foreign corporation authorized to do business in the State of Georgia and may be served by its registered agent, CT Corporation System, 289 S. Culver Street, Lawrenceville, GA, 30046.

24.

Defendant denies the allegations contained in Paragraph No. 24 of Plaintiff's Complaint.

25.

Defendant denies the allegations contained in Paragraph No. 25 of Plaintiff's Complaint.

26.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 26 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

27.

In response to the allegations contained in Paragraph No. 27 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram was driving within his scope of employment with this Defendant at the time of the incident referenced in Plaintiff's

Complaint. This Defendant denies the remaining allegations contained in Paragraph No. 27 of Plaintiff's Complaint.

28.

In response to the allegations contained in Paragraph No. 28 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram was driving within his scope of employment with this Defendant at the time of the incident referenced in Plaintiff's Complaint. This Defendant denies the remaining allegations contained in Paragraph No. 28 of Plaintiff's Complaint.

29.

In response to the allegations contained in Paragraph No. 29 of Plaintiff's Complaint, this Defendant admits that Defendant Hiram was driving within his scope of employment with this Defendant at the time of the incident referenced in Plaintiff's Complaint. This Defendant denies the remaining allegations contained in Paragraph No. 29 of Plaintiff's Complaint.

30.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 30 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

31.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 31 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

32.

Defendant denies the allegations contained in Paragraph No. 32 of Plaintiff's Complaint. 33.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 33 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

34.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 34 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

35.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 35 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

36.

Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 36 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

37.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 36 of Plaintiff's Complaint as if fully stated herein.

38.

In response to the allegations contained in Paragraph No. 38 of Plaintiff's Complaint, this Defendant admits that it may be vicariously liable for the negligent acts or omissions committed by its employee while driving within his scope of employment for this Defendant. This Defendant denies the remaining allegations contained in Paragraph No. 38 of Plaintiff's Complaint.

39.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 38 of Plaintiff's Complaint as if fully stated herein.

40.

Defendant denies the allegations contained in Paragraph No. 40 of Plaintiff's Complaint.

41.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 41 of Plaintiff's Complaint as if fully stated herein.

42.

Defendant denies the allegations contained in Paragraph No. 42 of Plaintiff's Complaint.

43.

Defendant re allege and incorporate herein by reference their responses to paragraphs 1 through 42 of Plaintiff's Complaint as if fully stated herein.

44.

This Defendant denies the allegations contained in Paragraph No. 44 of Plaintiff's Complaint.

45.

In response to the allegations contained in Paragraph No. 45 of Plaintiff's Complaint, this Defendant admits that it may be held vicariously liable for the negligent acts and omissions committed by its employee while in his scope of employment with the Defendant. This Defendant denies the remaining allegations contained in Paragraph No. 45 of Plaintiff's Complaint.

46.

Defendant denies the allegations contained in Paragraph No. 45 of Plaintiff's Complaint.

47.

In response to the allegations contained in Paragraph No. 47 of Plaintiff's Complaint, this Defendant admits that it had policy of liability insurance provided by Defendant State National Insurance Company that was in effect at the time of the incident referenced in Plaintiff's Complaint.

48.



Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph No. 48 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

49.

Defendant denies the allegations contained in Paragraph No. 49 of Plaintiff's Complaint.

50.

Defendant denies the allegations contained in Paragraph No. 50 of Plaintiff's Complaint.

51. (Second Paragraph 43)

Defendant denies the allegations contained in Paragraph No. 51 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 43.

52. (Second Paragraph 44)

Defendant denies the allegations contained in Paragraph No. 52 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 44.

53. (Second Paragraph 45)

Defendant denies the allegations contained in Paragraph No. 53 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 45.

54. (Second Paragraph 46)

Defendant denies the allegations contained in Paragraph No. 54 of Plaintiff's Complaint, marked in Plaintiff's Complaint as the second Paragraph 46.

55.

Any allegations contained in Plaintiff's Complaint not herein responded to by number, including Plaintiff's ad damnum/prayer for relief clause and its subparts, are hereby denied.

WHEREFORE, having fully answered, Defendant pray that the Complaint be dismissed with costs of this action cast against Plaintiff.

Defendants further demand a trial by a twelve (12) person jury.

This 16<sup>th</sup> day of February 2023.

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By: /s/ Michael J. Yates  
ANNA K. BEATON  
State Bar No.: 421320  
MICHAEL J. YATES, JR.  
State Bar No.: 708897

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing upon all parties to this matter via electronic filing with the Clerk of the Court, addressed to counsel of record as follows:

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MITCHELLE E MCGOUGH LAW, LLC  
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Suite 2250  
Atlanta, GA 30326  
*Attorney for Plaintiff*

This 16<sup>th</sup> day of February 2023.

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By: /s/ Michael J. Yates  
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